

1 Koon, lacked classical music expertise. One of the declara-  
2 tions that I intend to offer later this afternoon, because I  
3 haven't offered it I won't speak about it, makes the same  
4 assertion. We have also heard testimony, though, that one of  
5 the individuals, at least one on -- that is also mentioned on  
6 this list, Glynelle Wells, did have classical music expertise.  
7 So, we've got people who both didn't and did who are listed  
8 here. And what this shows is at least, if nothing more, that  
9 the station made the decision even though it had someone on  
10 the staff with extensive classical music expertise to assign  
11 some of these classical accounts to people who, who there's  
12 testimony that they lacked that expertise.

13 I don't intend it for a statistical showing but  
14 simply to respond to that argument in the footnote, which I  
15 would assert is in fact a very significant and material repre-  
16 sentation which concerned the Commission in the HDO and goes  
17 to the heart of this case.

18 MS. SCHMELTZER: Your Honor, we don't know when  
19 these people were assigned to these accounts.

20 JUDGE STEINBERG: Well, that's, that's what I was  
21 going to say. We don't know --

22 MR. HONIG: The, the documents --

23 JUDGE STEINBERG: -- when --

24 MR. HONIG: -- show that and I intend to offer the  
25 entire package --

1 JUDGE STEINBERG: Wait. Wait.

2 MR. HONIG: -- so that the background will be there,  
3 and that's why I wanted to take 60 out of sequence, because I  
4 would like to offer the raw data which will show that.

5 JUDGE STEINBERG: Well, I just -- I don't think  
6 you've made this showing. Maybe Glynelle Wells had all she  
7 could handle. We'd have to get somebody in here to, to ex-  
8 plain why was -- why Tom Koon, assuming he had no expertise,  
9 was given the St. Louis Philharmonic Orchestra account or the  
10 Webster Records or Dance St. Louis or whatever. Maybe -- it  
11 seems to me that this raises more questions than it answers.

12 MS. SCHMELTZER: Well --

13 JUDGE STEINBERG: I'm, I'm not -- well, I'll with-  
14 draw that "I'm not." I just don't think that this is proba-  
15 tive of what you -- and, and as useful for what you want to  
16 use it for.

17 MS. SCHMELTZER: In addition, Your Honor, there were  
18 other Sales people that were there at that period of time who  
19 are not listed on this. It's a very incomplete inadequate  
20 list.

21 MR. HONIG: My answer to that though is that this is  
22 rebuttal and if there is surrebuttal then I'm, I'm -- even if  
23 it has to go later, I'm quite happy to, to allow them the last  
24 word.

25 JUDGE STEINBERG: Well, for, for the reasons that

1 I've expressed, I'm going to reject Exhibit No. 60.

2 (Whereupon, the document marked for  
3 identification as NAACP Exhibit  
4 No. 60 was rejected.)

5 JUDGE STEINBERG: I, I -- I just think that the --  
6 for the reasons I've, I've said, there are, there are, there  
7 are far too many problems with it to have it in this record.

8 MR. HONIG: Well --

9 JUDGE STEINBERG: Okay. Do you -- now, there are --

10 MR. HONIG: New, new stuff.

11 JUDGE STEINBERG: Okay. This takes care, I  
12 believe --

13 MS. SCHMELTZER: Does that conclude the NAACP's --

14 MR. HONIG: No.

15 JUDGE STEINBERG: No.

16 MS. SCHMELTZER: -- rebuttal case?

17 JUDGE STEINBERG: We've still got --

18 MR. HONIG: No, it does not.

19 JUDGE STEINBERG: We've still got a couple of  
20 documents. Which one do you want to do first?

21 MR. HONIG: Let me first do, so we can keep our  
22 train of thought, what number -- this is going to be NAACP  
23 Exhibit 65.

24 MS. SCHMELTZER: What is it?

25 JUDGE STEINBERG: He's, he's putting numbers on it.

1 Let's --

2 MS. SCHMELTZER: Well, but was it?

3 JUDGE STEINBERG: -- let's give Mr. Honig --

4 MS. SCHMELTZER: Has he ident--

5 JUDGE STEINBERG: -- let's give Mr. Honig a chance  
6 to complete that.

7 MR. HONIG: NAACP No. 65 is a 139-page document  
8 consisting of the station's records produced in discovery for  
9 1989 listing all of the accounts and, as I understand from  
10 counsel, potential but not actual accounts. Associated with  
11 them are numbers which refer to Sales people assigned to them.  
12 It is -- again, it's a long document. But on the theory that  
13 -- especially if 60 is out, this is, this is the best evi-  
14 dence. This was, this was authenticated by Mr. Stortz in his  
15 testimony. That would enable the Parties to simply put their  
16 differences aside and make Findings and then make rebuttal  
17 Findings based upon it. I think I've already exchanged a copy  
18 to --

19 MS. SCHMELTZER: Yes, you did.

20 MR. HONIG: You have a copy.

21 JUDGE STEINBERG: I don't have it.

22 MR. HONIG: You don't have it. I'll get you --

23 (Pause.)

24 JUDGE STEINBERG: Okay. The reporter will get two  
25 copies and I a copy.

1 MS. SCHMELTZER: Would you tell us what it purports  
2 to be, Mr. Honig?

3 JUDGE STEINBERG: He just said.

4 MR. HONIG: I just stated.

5 JUDGE STEINBERG: I'll repeat it. NAACP Exhibit 65  
6 is, is the station's records produced in discovery showing  
7 which accounts were assigned to which Sales people in 1989.  
8 Am I -- did I characterize that correctly, Mr. Honig?

9 MR. HONIG: Actually, I think it's May '89 and I  
10 think there are some for July '89, if I'm remembering  
11 correctly. There are two cross references. There's one set  
12 of just accounts by Sales person and there's also a reverse  
13 set of Sales people by accounts.

14 JUDGE STEINBERG: Okay. The document described will  
15 be marked for identification as NAACP Exhibit 65.

16 (Whereupon, the document referred to  
17 as NAACP Exhibit No. 65 was marked  
18 for identification.)

19 MS. SCHMELTZER: I'm going to disagree with the  
20 description of that document.

21 JUDGE STEINBERG: Okay.

22 MS. SCHMELTZER: This is not a list of all the  
23 station's accounts. This is a list of every conceivable  
24 business in St. Louis divided up, but it's, it's a potential  
25 list. It's a call list. It is not the station's list of

1 accounts and Mr. Stortz did not testify that it was the sta-  
2 tion's list of accounts. The only thing he testified to was  
3 that it was produced in discovery.

4 MR. GOTTFRIED: Your Honor, we had it described to  
5 us as the yellow pages divided up among the salesmen. They  
6 don't want two people making a call to the same person, so  
7 they divide up the yellow pages.

8 JUDGE STEINBERG: Well, that's, that -- I don't  
9 remember testimony of that nature.

10 MR. GOTTFRIED: No, there's no testimony about what  
11 it is at all. That's how -- I'm telling -- I'm representing  
12 to you that that's how it was described to us. There's no  
13 testimony about what it is.

14 JUDGE STEINBERG: Okay. Now, do you want to offer  
15 it --

16 MR. HONIG: Yes.

17 JUDGE STEINBERG: -- and, and explain the purpose  
18 for which you propose to use it?

19 MR. HONIG: Yes. It is offered. I accept counsels'  
20 representation as to what it is. And in, inasmuch as we have  
21 a footnote that identifies various classical-related accounts,  
22 and it's clear that there were several Sales people, some of  
23 which had and did not have experience, some of the accounts  
24 are obviously classical related, some are not. We have what  
25 the station said was a partial list. This would make it

1 possible for the Parties to make Findings going to the -- I  
2 would agree it would not be, in light of its description, it,  
3 it -- I cannot offer it for the purpose showing the percentage  
4 of accounts which were classical related, but it is offered  
5 for the lesser purpose of showing that, that there -- that it  
6 was common for Sales people with classical experience to be  
7 assigned to non-classical accounts and for state -- for Sales  
8 people without classical experience to also be assigned to  
9 classical accounts, and it's offered just for that purpose.

10 MS. SCHMELTZER: I think this is totally meaning-  
11 less, Your Honor. It doesn't add -- it just burdens the  
12 record, in addition to which I have a lot of blank pages.  
13 Page 52 is blank. Page 57 is blank. Page 131 is blank.  
14 There are additional pages that are blank. This is, this is  
15 the most ridiculous exhibit I've ever --

16 JUDGE STEINBERG: Well --

17 MS. SCHMELTZER: -- seen, just because --

18 JUDGE STEINBERG: -- let's, let's confine the  
19 comments to legal obligations, and "ridiculous" is not a legal  
20 obligation.

21 MS. SCHMELTZER: Well, it's not relevant to any  
22 issue in this proceeding.

23 JUDGE STEINBERG: Mr. Zauner?

24 MR. ZAUNER: Your Honor, while the Bureau did not  
25 object to the prior exhibit it understands the reasons that

1 | you objected to that exhibit, and it seems to me that this  
2 | exhibit is part and parcel of that one and that the same  
3 | reasons for rejecting it apply to this one. So, the, the  
4 | Bureau will not support receiving this exhibit.

5 | JUDGE STEINBERG: Exhibit 65 is rejected for the  
6 | reasons that were stated with respect to Exhibit 60. Did I  
7 | get the number right?

8 | (Whereupon, the document marked for  
9 | identification as NAACP Exhibit  
10 | No. 65 was rejected.)

11 | MR. HONIG: Okay. Your Honor, before -- I neglected  
12 | to note, what was your ruling on 63?

13 | JUDGE STEINBERG: Let me look it, look it up.

14 | MS. SCHMELTZER: I have 63 received for a limited  
15 | purpose.

16 | JUDGE STEINBERG: 63 was restricted to explaining  
17 | the witnesses' testimony, witnesses plural.

18 | MR. HONIG: Okay. So, am I correct that there has  
19 | been either a -- either acceptance or rejection, withdrawal,  
20 | or some other ruling on all of Exhibits NAACP --

21 | JUDGE STEINBERG: Right.

22 | MR. HONIG: -- 1 through 65?

23 | JUDGE STEINBERG: Except for the reserved one.

24 | MR. HONIG: Except for the reserved one.

25 | JUDGE STEINBERG: Now --



1 MR. HONIG: Now, coming, coming to those.

2 JUDGE STEINBERG: Okay. Now, you've got two things  
3 that I have up here: Cari O'Halloran and Richard Miller  
4 biographical information.

5 MR. HONIG: Yes.

6 JUDGE STEINBERG: I would suggest that we use some  
7 of the reserved numbers for those.

8 MR. HONIG: Sure.

9 JUDGE STEINBERG: Because I, I think it makes sense  
10 to keep all the declarations together.

11 MR. HONIG: Since Mr. Miller's was --

12 JUDGE STEINBERG: Well, let's, let's keep Mr.  
13 Miller's -- we'll just keep that clean. We'll give this a new  
14 number.

15 MR. HONIG: Yeah. Let's make that 13 then.

16 MS. SCHMELTZER: Well --

17 MR. HONIG: Mr. Miller's --

18 JUDGE STEINBERG: Okay. Why don't you describe it?

19 MR. HONIG: Does everyone have copies? I don't  
20 think I've given the reporter --

21 JUDGE STEINBERG: No, you haven't given -- I, I  
22 asked you not to until you identified it.

23 MR. HONIG: Okay. Your Honor, I'm handing the  
24 reporter two copies of a one-page document which has marked  
25 for identification as NAACP Exhibit 13 and would ask that it

1 | be so identified.

2 | JUDGE STEINBERG: Okay. It is Richard J. Miller  
3 | Biographical Information and it will be marked for identifica-  
4 | tion as NAACP Exhibit 13.

5 | (Whereupon, the document referred to  
6 | as NAACP Exhibit No. 13 was marked  
7 | for identification.)

8 | MR. HONIG: Your Honor, this is -- all -- this is  
9 | intended only to supplement the description that I gave on the  
10 | record of Mr. Miller's background. It is prepared by Mr.  
11 | Miller and, and it is offered only for that purpose. I should  
12 | note that the station listed here as KADI I gather has changed  
13 | call letters to KRJY, but in other respects I believe it to be  
14 | essentially accurate. I think it's -- and I think it's, it's,  
15 | it's helpful to the Court in, in evaluating Mr. Miller's  
16 | testimony.

17 | JUDGE STEINBERG: What were the new call letters?

18 | MR. HONIG: KRJY.

19 | MS. SCHMELTZER: Well, may I -- a point of clarifi-  
20 | cation. What, what became KRJY?

21 | MR. HONIG: KAD-- it was KADI-FM, which is listed  
22 | here. It says, "...until its sale in 1984." That was  
23 | KRJY-FM.

24 | MS. SCHMELTZER: Well, what's KJOY?

25 | MR. HONIG: That was the call -- that was the, the

1 trade name.

2 MS. SCHMELTZER: So, that's not another station?

3 MR. HONIG: No.

4 JUDGE STEINBERG: What, what -- I didn't follow

5 that. KADI-FM changed call signs to KRJY-FM?

6 MR. HONIG: Yes.

7 JUDGE STEINBERG: Okay.

8 MS. SCHMELTZER: And KJOY is not a radio station?

9 MR. HONIG: I don't believe it, it is.

10 JUDGE STEINBERG: Oh, KJOY is KRJY?

11 MR. HONIG: I, I believe that's correct. I, I will

12 certainly inform the Court if it's not. My understanding is

13 that KJOY Jukebox 96 was a -- was, was a trade name, not a

14 Commission call sign. I can find out.

15 MS. SCHMELTZER: So, we have one station here we're

16 talking about.

17 MR. HONIG: It's, it's a stand-alone FM station.

18 JUDGE STEINBERG: And it's -- okay. Did I -- yeah,

19 I, I identified it, correct?

20 ((No audible response.))

21 JUDGE STEINBERG: Okay. Is it being offered?

22 MR. HONIG: It is being offered.

23 JUDGE STEINBERG: Mrs. Schmeltzer?

24 MS. SCHMELTZER: No objection.

25 MR. ZAUNER: No objection.

1 JUDGE STEINBERG: Exhibit 13 is received.

2 (Whereupon, the document marked for  
3 identification as NAACP Exhibit  
4 No. 13 was received into evidence.)

5 JUDGE STEINBERG: And, and does everyone accept Mr.  
6 Honig's representation about the calls -- about the change in  
7 call sign?

8 MR. ZAUNER: Yes.

9 JUDGE STEINBERG: Subject to check. If it turns out  
10 to be incorrect somebody will let me know, I'm sure. Okay.  
11 Now, the next one --

12 MR. HONIG: The next one is --

13 JUDGE STEINBERG: We'll make this 14?

14 MR. HONIG: -- is 14, is the June 22, 1994,  
15 Declaration of Cari O'Halloran, formerly Cari Perez. Does  
16 everyone have a copy and does the court reporter have it?

17 JUDGE STEINBERG: She -- the court reporter doesn't  
18 have one.

19 MR. HONIG: The court reporter doesn't have copies.  
20 Does Your Honor have a copy?

21 JUDGE STEINBERG: Yes.

22 MR. HONIG: Okay. Now --

23 JUDGE STEINBERG: Okay. The document is two pages  
24 in length and it will be marked for identification as NAACP  
25 Exhibit No. 14.

1 (Whereupon, the document referred to  
2 as NAACP Exhibit No. 14 was marked  
3 for identification.)

4 MR. HONIG: Your Honor, first please, if, if I may,  
5 first permit me to apologize to the Court for the fact that  
6 this, that this Declaration is coming in late. I would like  
7 to offer an explanation because the Court is owed one.

8 When we had discovery the Licensee produced to us a  
9 -- an extensive set of documents which listed their last known  
10 addresses and so forth for former employees and applicants.  
11 We used that material to attempt to locate the witness in St.  
12 Louis and the best we were able to find was that she had moved  
13 out of town. Eventually we got a lead and traced her to Tampa  
14 and discovered that she was working in the business and had  
15 gotten married and changed her name, and we found her at WTMV,  
16 TV Channel 32 Tampa and -- where she's working in Sales.

17 And she's agreed to, to be a witness in the case, to  
18 make herself available for cross-examination if there were a  
19 way to do that, and she's willing to be deposed on notice.  
20 She executed this Declaration Wednesday and faxed it to us  
21 yesterday and we now are producing it today. Ms. Perez, now  
22 Ms. O'Halloran, was the only minority person still alive who,  
23 and one of only two, who is known to have worked in the top  
24 four job-- in one of the top four job categories at the sta-  
25 tions during the license term. She has been the subject of

1 considerable testimony by a number of witnesses, including one  
2 of our witnesses, Jan Hutchinson. She states -- and, and, and  
3 owing to the fact that it was late, we deliberately put in  
4 material which we realized was not going to be terribly  
5 helpful to us, might be helpful to the other side, but none-  
6 theless there were assertions made that, that she had a back-  
7 ground in classical music.

8 JUDGE STEINBERG: Okay. Let, let me stop you there.  
9 I --

10 MR. HONIG: Sure.

11 JUDGE STEINBERG: -- think you've gone beyond --

12 MR. HONIG: I'm sorry.

13 JUDGE STEINBERG: -- going into the circumstances  
14 behind producing this and now you're getting into the sub-  
15 stance, and I don't want to do that.

16 MR. HONIG: Okay.

17 JUDGE STEINBERG: So, you've explained the circum-  
18 stances surrounding your obtaining this Declaration. Now are  
19 you offering it?

20 MR. HONIG: Yes, I'm offering it.

21 JUDGE STEINBERG: Mrs. Schmeltzer?

22 MS. SCHMELTZER: Your Honor, the date for rebuttal  
23 exhibits in this case was June 17, 1994. I think this exhibit  
24 is unconscionably late. Plus, I would notice she executed it  
25 on June 22nd. She faxed it on June 23rd. We didn't see it

1 until this morning, June 24th. And I just don't think that's  
2 at all fair.

3 MR. HONIG: --

4 JUDGE STEINBERG: Mr. Zauner? Wait. Mr. Zauner?

5 MR. ZAUNER: Could I have one moment, Your Honor?

6 JUDGE STEINBERG: Yes.

7 MR. ZAUNER: Your Honor, we agree with the Church  
8 that this is late exchanged; however, we have no objection to  
9 it on, on that ground and we don't feel prejudiced by it and  
10 we believe it has some relevant information. Specifically --  
11 well, I'll just leave it at that.

12 JUDGE STEINBERG: Okay. A brief response and then  
13 I'll rule.

14 MR. HONIG: Sure. Do you want a description of the  
15 -- of what it's offered for?

16 JUDGE STEINBERG: It's obvious what -- if you read  
17 it it's obvious what it's offered for.

18 MR. HONIG: Okay. Then I won't go into that and  
19 I'll just respond on the question of, of the date. It was not  
20 our intention to submit it late to delay this case. It is  
21 submitted late only because we weren't able to reach the  
22 witness until after the exchange date. The witness signed it  
23 on the 22nd and faxed it the next day. I did not receive it  
24 until last night because she faxed it to my office and nobody  
25 was there, because I work alone except for one assistant. I

1 brought it in this morning and exchanged it this morning.

2           The case is four years old and I do not think that,  
3 that the, that the late exchange of one of our many exhibits  
4 shows that, that -- especially in these circumstances where  
5 the person changed her name and moved out of the city -- shows  
6 any lack of diligence or any disrespect to the Court. I  
7 certainly want you to know that none was intended.

8           JUDGE STEINBERG: Exhibit --

9           MR. ZAUNER: Your Honor, could I just say one thing  
10 before you rule? And, and that is that although the Bureau  
11 does not object to it generally, if it -- Your Honor was  
12 inclined to receive it, there are some particular sentences in  
13 the Declaration that we would object to.

14           JUDGE STEINBERG: Okay. Exhibit 14 is rejected. It  
15 -- the rebuttal exhibit exchange was the 17th of June. While  
16 I understand the circumstances that you've described, in, in  
17 my estimation the Answers to Interrogatories or documents were  
18 exchanged sufficiently far in advance so that, so that the  
19 documents that you -- that certainly the declarations that you  
20 were going to exchange should have been exchanged by June  
21 17th. So, Exhibit 14 is rejected.

22                               (Whereupon, the document marked for  
23 identification as NAACP Exhibit  
24 No. 14 was rejected.)

25           JUDGE STEINBERG: Do you have any other rebuttal



1 | exhibits?

2 |           MR. HONIG: I will have one. I was expecting it  
3 | today but it has not yet arrived. There is a, a declaration  
4 | of Kathy Woodard which I believe will be dated today. I went  
5 | through it with her this morning when I talked to her. It is  
6 | short. I do not mind providing -- I only have one copy, but I  
7 | don't mind showing that to everyone and, and asserting that it  
8 | is the testimony which that -- which the former wife of Otis  
9 | Woodard told me that she would sign and fax to me, and I --  
10 | and it may be appropriate to save time to, to get a ruling on  
11 | whether either it could be admitted subject to submission or  
12 | whether it, it will be admitted when it is submitted. She is  
13 | also willing to be available to be deposed on notice and to  
14 | undergo cross-examination. She was available, actually, for  
15 | either by speakerphone this, this morning, but I gather we  
16 | couldn't reach her at her job. I will be happy to provide  
17 | phone number at work and at home for this witness. Would Your  
18 | Honor like me to circulate the copy that I have or read it?  
19 | It's very brief.

20 |           MS. SCHMELTZER: I don't think it should be read  
21 | into the record without our seeing it.

22 |           JUDGE STEINBERG: Why don't you show it to the --

23 |           MR. HONIG: Sure.

24 |           JUDGE STEINBERG: -- opposing Parties?

25 |           MR. HONIG: Does Your Honor want to see it also?

1 JUDGE STEINBERG: Not, not right now.

2 (Pause.)

3 MS. SCHMELTZER: Your Honor, we're willing to -- the  
4 Church is willing to stipulate that this -- that would be  
5 Kathryn Woodard's testimony if she were called.

6 MR. ZAUNER: We have no objection to that  
7 stipulation.

8 JUDGE STEINBERG: Do you want it -- so, you would  
9 have no objection to -- okay. Neither of you would have any  
10 objection to, to stipulating that that would be her testimony.  
11 Why don't you give me the document and I'll identify it. The  
12 document is one page in length and is called Declaration of  
13 Kathryn, K A T H R Y N, Woodard, W O O D A R D, and the docu-  
14 ment is identified as NAACP Exhibit No. 15.

15 (Whereupon, the document referred to  
16 as NAACP Exhibit No. 15 was marked  
17 for identification.)

18 MR. HONIG: Number -- that's right.

19 JUDGE STEINBERG: And the Declaration is -- my  
20 understanding, it, it will be -- Exhibit No. 15 is accepted --  
21 is received and the stipulation of the Parties is that if  
22 Kathryn Woodard were called as a witness this would be her  
23 testimony. Is that correct, Mrs. Schmeltzer?

24 MS. SCHMELTZER: That's correct.

25 JUDGE STEINBERG: Mr. Honig?

1                   MR. HONIG: Yes.

2                   JUDGE STEINBERG: Mr. Zauner?

3                   MR. ZAUNER: Yes.

4                               (Whereupon, the document marked for

5                               identification as NAACP Exhibit

6                               No. 15 was received into evidence.)

7                   JUDGE STEINBERG: Now, why doesn't -- why don't we

8 go off -- is this going to complete your rebuttal case? I

9 don't see any, I don't see anything else.

10                  MR. HONIG: I think that's all we have, Your Honor.

11 Let me just check to be sure. Yes, it does, Your Honor. That

12 will complete our rebuttal case.

13                  JUDGE STEINBERG: Okay. Now, we, we will go off the

14 record. And while we are off the record if, if Ms. Laden or

15 Mr. Zauner would just use our xerox machine to xerox a whole

16 bunch of these and we can give them to the reporter and --

17 thank you. And then we'll go -- we'll take a break. How, how

18 long do you need? And then we'll do -- then we'll commence

19 surrebuttal.

20                  MS. SCHMELTZER: I'd like to make it as quick as

21 possible because we have a witness, and if he's going to be

22 cross-examined we want to get him out of here today.

23                  MR. GOTTFRIED: We may not even want to cross-

24 examine him.

25                  JUDGE STEINBERG: Okay. We'll, we'll go off the

1 record. We'll take five minutes.  
2 (Off the record.)  
3 (On the record.)  
4 JUDGE STEINBERG: Okay. We're back on the record.  
5 Before we commence surrebuttal, I just want to note for the  
6 record that there is no NAACP Exhibit 16, 17, 18, 19, or 20.  
7 I just want to make that clear for the record. Those numbers  
8 were reserved and not used. And we could spend the afternoon  
9 renumbering if you would like?  
10 MS. SCHMELTZER: No.  
11 JUDGE STEINBERG: I, I don't think we will.  
12 (Laughter.)  
13 JUDGE STEINBERG: So, good luck to anybody looking  
14 for those exhibits. Now, Mrs. Schmeltzer, do you have  
15 surrebuttal?  
16 MS. SCHMELTZER: Yes, Your Honor.  
17 JUDGE STEINBERG: Okay.  
18 MS. SCHMELTZER: How -- do you want me to --  
19 JUDGE STEINBERG: Why don't we -- you identify the  
20 exhibits --  
21 MS. SCHMELTZER: Do you want it Surrebuttal Exhibit  
22 1, Surrebuttal --  
23 JUDGE STEINBERG: No. 11 --  
24 MS. SCHMELTZER: Okay. All right.  
25 JUDGE STEINBERG: Start with 11.

1 MS. SCHMELTZER: And I think there would --

2 JUDGE STEINBERG: Yeah, I don't like -- one 1 is  
3 enough.

4 MS. SCHMELTZER: Okay. I would like to have iden-  
5 tified as Church Exhibit 11 a document entitled, "Surrebuttal  
6 Testimony of Dennis Stortz." It consists of two pages and an  
7 attached declaration and then a form that's headed "KFUO EEO  
8 Recruitment Program, Month of January 1990," which is already  
9 in the record.

10 JUDGE STEINBERG: Correct. Okay. The document,  
11 which totals four pages, will be marked for identification as  
12 Church Exhibit 11.

13 (Whereupon, the document referred to  
14 as Church Exhibit No. 11 was marked  
15 for identification.)

16 MS. SCHMELTZER: Okay. And I'm going -- we previ-  
17 ously exchanged this with counsel. I'm going to give a copy  
18 to Your Honor and two --

19 JUDGE STEINBERG: I've got one.

20 MS. SCHMELTZER: Oh, you do. All right.

21 JUDGE STEINBERG: Yes.

22 MS. SCHMELTZER: I'm going to give two copies to the  
23 reporter. And -- the reporter probably wants the original,  
24 don't you?

25 COURT REPORTER: That's --

1 MS. SCHMELTZER: Let me give you the original.

2 (Pause.)

3 MS. SCHMELTZER: And we have Mr. Dennis Stortz here  
4 if he's requested for cross-examination on this document.

5 JUDGE STEINBERG: Why don't you put Mr. Stortz on  
6 the stand and let's, you know, go through the motions of  
7 qualifying it and, and, and we'll see. Notice I didn't set a  
8 notification for cross date for surrebuttal.

9 Okay. Mr. Stortz, I think your oath is still valid.  
10 It hasn't expired yet.

11 MR. STORTZ: Yes, sir.

12 JUDGE STEINBERG: You're still under oath and if you  
13 want to please state your name again?

14 MR. STORTZ: Dennis Stortz.

15 JUDGE STEINBERG: Okay. Mrs. Schmeltzer?

16 DIRECT EXAMINATION

17 BY MS. SCHMELTZER:

18 Q Mr. Stortz, do you have a copy of Church Exhibit 11  
19 in front of you?

20 A Yes.

21 Q And is that statement true and correct to the best  
22 of your knowledge, information, and belief?

23 A It is, yes.

24 MS. SCHMELTZER: Mr. Stortz is available for cross-  
25 examination, Your Honor.

1 JUDGE STEINBERG: Do you want to offer it and --  
2 MS. SCHMELTZER: And I would offer Church Exhibit  
3 11.  
4 JUDGE STEINBERG: Any objection?  
5 MR. HONIG: No, but I would like to cross-examine  
6 briefly.  
7 JUDGE STEINBERG: Certainly. Any objection, Mr.  
8 Zauner?  
9 MR. ZAUNER: No objection.  
10 JUDGE STEINBERG: Okay. Church Exhibit 11 is  
11 received.  
12 (Whereupon, the document marked for  
13 identification as Church Exhibit  
14 No. 11 was received into evidence.)  
15 JUDGE STEINBERG: And cross-examination by Mr.  
16 Honig.  
17 CROSS-EXAMINATION  
18 BY MR. HONIG:  
19 Q Mr. Stortz, have you ever met Kathy Woodard?  
20 A I have not.  
21 Q Have you ever spoken with Kathy Woodard?  
22 A I have not.  
23 MS. SCHMELTZER: And I assume your questions are  
24 confined to the license period, is that correct?  
25 MR. HONIG: Yes. Then I have no further questions.

1 JUDGE STEINBERG: Mr. Zauner?  
2 MR. ZAUNER: May I have one moment, Your Honor?  
3 JUDGE STEINBERG: Yes, you may. We can go off the  
4 record.  
5 (Off the record.)  
6 (On the record.)  
7 JUDGE STEINBERG: Back on the record. Mr. Zauner?  
8 MR. ZAUNER: Your Honor, the Bureau has no  
9 questions.  
10 MS. SCHMELTZER: I have one question on redirect,  
11 Your Honor. Mr. --  
12 JUDGE STEINBERG: Why now? Just a little joke.  
13 REDIRECT EXAMINATION  
14 BY MS. SCHMELTZER:  
15 Q Mr. Stortz, you were asked by Mr. Honig whether you  
16 had ever spoken to Kathy Woodard. I'd like to ask you to turn  
17 to the last page of Surrebuttal -- of Church Exhibit 11 and  
18 ask if it was you or someone else at the station that filled  
19 out that, that form?  
20 A That was someone --  
21 MR. HONIG: Objection.  
22 JUDGE STEINBERG: On what --  
23 MR. HONIG: How was that -- how was --  
24 JUDGE STEINBERG: -- on what basis?  
25 MR. HONIG: How was that, how was that responsive to



1 the question I asked?

2 MS. SCHMELTZER: He was asked if, if Mr. Stortz had  
3 ever spoken to Kathy Woodard.

4 JUDGE STEINBERG: Oh, and basically the redirect is  
5 does the last page refresh your memory as to whether or not  
6 you spoke to her?

7 MS. SCHMELTZER: No. The question is was it -- did  
8 you fill out that form or did someone else fill out that form.  
9 I think the record should be clear on that.

10 MR. HONIG: Objection. The, the cross-examination  
11 was did he talk to, did he know her. No. No.

12 JUDGE STEINBERG: I'll, I'll allow the question and  
13 then I'll allow you to recross.

14 MR. HONIG: All right.

15 JUDGE STEINBERG: I -- and under similar circum-  
16 stances I allowed you to -- certain leeway, even though I gave  
17 you a hard time, but you did get your answers, didn't you?

18 MR. HONIG: I -- pardon me?

19 JUDGE STEINBERG: But you did get your answers,  
20 didn't you?

21 MR. HONIG: Yes.

22 JUDGE STEINBERG: Okay. So, you can answer the  
23 question.

24 MS. SCHMELTZER: Do you recall the question?

25 JUDGE STEINBERG: Who filled out the -- who filled